

FAIR POLITICAL PRACTICES COMMISSION

M E M O R A N D U M

TO: Chairman Getman, Commissioners Downey, Knox, Scott and Swanson

FROM: Steven Benito Russo, Chief, Enforcement Division
Alan Herndon, Chief Investigator
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DATE: July 20, 2001

SUBJECT: STREAMLINED MAJOR DONOR ENFORCEMENT PROGRAM - FINAL REPORT 2000

INTRODUCTION

At the September 1999 Commission meeting, the Commission approved an expedited program to address violations by major donor committees that failed to timely file their major donor campaign statements. This program was reviewed and modified at the May 2000 Commission meeting, at which time the program's processes and penalty schedule were enhanced to a 'streamlined' process, with a standardized penalty schedule, for the identification and resolution of violations of the major donor reporting provisions of the Political Reform Act (the "Act").¹ The Commission further authorized the use of a one page Stipulation, Decision and Order to resolve these cases.

The goal of the Major Donor Program is to encourage prompt compliance with the campaign statement filing requirements for major donor committees. The plan addresses both proactive public outreach and education for major donors, with respect to their filing requirements, and swift enforcement of violations by committees that fail to fulfill their reporting responsibilities as mandated by the Act.

BACKGROUND

With the assistance of the Secretary of State's office, the Enforcement Division obtained databases containing all electronically reported contributions received during the 2000 calendar year. The information was electronically sorted and manually verified, to identify potential major donor committees that made contributions during the 1st and/or 2nd semi-annual filing periods of 2000.

Approximately thirty (30) days prior to the filing deadline for each semi-annual filing period, identified major donor committees were mailed a letter from the Technical Assistance Division. The letter informed them of their apparent status as a major donor committee and their filing obligations

¹ The Political Reform Act (the "Act") is contained in Government Code sections 81000 through 91014. All references to "Section(s)" are to the aforementioned Government Code unless otherwise indicated. Commission regulations appear at Title 2, California Code of Regulations, section 18109, *et seq.*

under the Act.² A total of 780 public education and courtesy contacts were made.

PROGRAM HIGHLIGHTS

- ❑ *780 Initial Public Education Contacts made*
- ❑ *157 Preliminary investigation / inquiries conducted*
- ❑ *80 cases resolved by a determination of no violation*
- ❑ *85 % reduction in identified violations from the 1st to the 2nd semi-annual period, which is a 56 % drop in the number of violations as a percentage of major donors contacted.*
- ❑ *\$3,081,558.95 in unreported contributions identified and disclosed to the public through proactive 'streamlined' enforcement*
- ❑ *62 'Streamlined' Stipulations, Decisions and Orders approved with a total of \$31,000.00 penalties collected*
- ❑ *Proactive Outreach / Education conducted for both major donor and electronic filing requirements*
- ❑ *15 Cases referred to full case status for investigation and/or prosecution*

The Enforcement Division, with the assistance of the Secretary of State's Office, reviewed the major donor campaign statements filed after both the 1st and 2nd semi-annual filing periods, to determine which identified committees had timely met their filing obligations under the Act. A total of 623 of the Committees contacted had timely filed their campaign statements, leaving 157 committees that had possibly failed to timely file their campaign statements.

Contact was established with the major donor committees that were apparent non-filers, requesting that they confirm their status as a major donor, and, if required to file, immediately file the required campaign statement. These contacts resulted in a determination that eighty (80) of the apparent non-filers either had filed, or were not required to file.

The remaining seventy-seven committees were found to have failed to timely file their campaign statements, resulting in a violation of the Act. Sixty-two (62) of these committees were charged with a violation that was resolved under the 'streamlined' program, using the one-page streamlined Stipulation, Decision and Order. This resulted in \$ 31,000.00 in penalties being collected. In the remaining fifteen (15) instances, cases were opened and referred to full investigative status.

The total contributions unreported by major donor committees was \$ 3,081,558.95. Major donors that were prosecuted, and entered into the sixty-two streamlined Stipulation, Decision and Orders through the streamlined major donor program made \$ 1,862,046.49 of these contributions. The remaining \$1,219,512.46 of contributions were made by major donors where, in the discretion of the Enforcement Division, they were referred for full investigation, and cases were initiated against these major donor committees. These matters remain under investigation.

² This letter was sent in addition to notifications previously provided to contributors of \$5,000 or more pursuant to Section 84105.

There was an eighty-five (85%) percent reduction in violations from the 1st to the 2nd semi-annual period, indicating an increase in compliance by the major donor committees filing their required campaign statements in a timely manner. This represents a fifty-six (56%) reduction in the number of violations during the second semi-annual filing period stated as a percentage of the total major donor committees contacted. This resulted in a rapid filing of the campaign statements, which brought about public disclosure of the contributors and contributions sooner rather than later.

The average reported contributions by each major donor committee increased from \$ 28,195.26 to \$ 40,855.33, while the average penalty amount decreased from \$498.11 to \$418.18 from the 1st to the 2nd semi-annual period. This also indicates that there was a quicker response to the Enforcement Division's initial contact during the second filing period, as the penalties are based on the timeliness of the committee's response to the Enforcement Division's contact. (A chart setting forth a recap of the major donor program for the 1st and 2nd semi-annual periods is attached for review).

CONCLUSION

In conclusion, the Major Donor Program appears to have been highly successful in accomplishing its established goals. Specifically:

- Substantial public education and contacts were made;
- A trend of increased voluntary compliance by committees has been established;
- Over \$ 3 million in contributions by major donors were identified and disclosed to the public;
- Swift enforcement actions were taken against non-filers;
- Sixty-two (62) 'streamlined' cases were resolved;
- Fifteen investigations have been launched into more serious violations.

DECISION 1

MAJOR DONOR STANDARDIZED FINE SCHEDULE - PROPOSED OPTIONS

ENFORCEMENT STAGE OF CONTACT	OPTION # 1 PRESENT (COMMISSION ADOPTED 12-8-00)	OPTION # 2	OPTION # 3
<u>Tier 1</u> Committees that file late, but voluntarily upon the Enforcement Division's initial written contact.	\$400.	\$500.	\$1,000.
<u>Tier 2</u> Committees that file late, but voluntarily upon the Enforcement Division's second written contact.	\$600.	\$1,000.	\$1,500.
<u>Tier 3</u> Committees that do not voluntarily file in response to the FPPC's first or second written contact, but require additional actions by enforcement to obtain compliance with their filing obligations.	15% of dollars contributed up to the statutory maximum per violation. 25% of dollars contributed up to the statutory maximum per violation if there is a record of prior enforcement action for the same violation (Gov. Code §84200).	15% of dollars contributed up to the statutory maximum per violation. 25% of dollars contributed up to the statutory maximum per violation if there is a record of prior enforcement action for the same violation (Gov. Code §84200).	15% of dollars contributed, <i>or \$2,000, whichever is greater</i> , up to the statutory maximum per violation. 25% of dollars contributed up to the statutory maximum per violation if there is a record of prior enforcement action for the same violation (Gov. Code §84200).

DECISION 2

Option # 1	No change	No change	No change
<u>Option # 2 Large or active contributor</u> Committees that either contribute \$50,000 or more, or make ten (10) or more contributions during a semi-annual reporting period will pay the appropriate base fine <u>plus</u> the enhancement fine.	1.0 % of the total dollars contributed.	1.0 % of the total dollars contributed.	1.0 % of the total dollars contributed.
<u>Option # 3 Graduated Fine Schedule</u> All fines would be increased by the flat percentage that would provide a weighted fine based on the size of the contributions made.	1.0 % of the total dollars contributed.	1.0 % of the total dollars contributed.	1.0 % of the total dollars contributed.